

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

RED MOUNTAIN MEDICAL HOLDINGS,
INC. f/k/a CDx, DIAGNOSTICS, INC.,

Plaintiff,

v.

JOEL V. BRILL, M.D. and
PREDICTIVE HEALTH, LLC,

Defendants.

Case No. 1:20-cv-02652-NRB

**DECLARATION OF ANDREW L. HURST
IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS**

I, Andrew L. Hurst, pursuant to 28 U.S.C. § 1746 and under penalty of perjury state and declare as follows:

1. I am an attorney admitted to practice law in the District of Columbia and to appear *pro hac vice* in this matter before the United States District Court for the Southern District of New York.

2. I am shareholder at Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, co-counsel for Defendants, Joel V. Brill, M.D. (“Dr. Brill”) and Predictive Health, LLC (“Predictive Health”) (collectively, the “Defendants”).

3. I submit this declaration in support of Defendants’ Motion to Dismiss the First Amended Complaint (the “Motion”) and know the statements made herein to be true based upon personal knowledge and/or based upon non-privileged information I have received from my client.

4. On May 19, 2015, Dr. Brill and KKR entered into a consulting agreement (“KKR Consulting Agreement”). A true and correct copy of the KKR Consulting Agreement is attached hereto as **Exhibit 1**.

5. On November 16, 2016, Dr. Brill (via his consulting firm, Predictive Health) and Accelmed entered into a consulting agreement (“Accelmed Consulting Agreement”). The Accelmed Consulting Agreement is attached hereto as **Exhibit 2**.

6. On September 24, 2020, Plaintiff’s counsel, Jessica Caterina, emailed Defendants’ co-counsel, Christopher DeGennaro. A true and correct copy of this correspondence is attached hereto as **Exhibit 3**.

7. On the same day, September 24, 2020, Mr. DeGennaro responded to Plaintiff’s counsel and provided them with—among other things—the KKR and Accelmed Consulting Agreements. A true and correct copy of this response is attached hereto as **Exhibit 4**.

I declare pursuant to 28 U.S.C. § 1746 and under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 12th day of February, 2021

/s/ Andrew L. Hurst
Andrew L. Hurst